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An Ounce of Prevention

No one would dispute the wisdom of Ben Franklin's axiom that an ounce of prevention is worth a pound of cure when the affliction is as horrific as workplace mass shootings. The question is, how easy is it to obtain that ounce of prevention?

Some urge realism about how much can be done to stop the determined active shooter.

"You can go through somebody's background check and pick up domestic violence or criminal activity. Basic Google searches can help if the person is putting up crazy stuff on a Facebook page. But often, you just can't tell, and that is one of the consequences of allowing individuals to have easy access to weapons," Brian Markovitz, a principal attorney at Joseph, Greenwald & Laake in Greenbelt, Md., told Bloomberg Law.

The ALICE Training Institute's Greg Crane sounded a similar note. "Everyone has been working on it for years, but it still keeps happening," he said of preventing mass shooting incidents. "A Secret Service attempt to develop a shooter profile in 2002 concluded you can't make such a profile. But take red flags seriously—for example, at Virginia Tech and in other instances, there were red flags, but the right people didn't take it seriously or do enough about it. That has changed in the last 10 years—employers do deal with it, where it's overt. It's the covert ones where you don't know it's a problem until it's a problem."

There's an unspoken tradeoff between costs and risks, because enhanced background screening of the kind the federal government does for high-security positions is expensive—and not 100 percent foolproof either. So when hiring a new employee, screening out people who have committed violent crimes "is about the best you can do," the Athos Group's Jeff Sweetin said. HR in previous jobs won't tell you everything, so that type of screening may only give the new employer a false sense of security, he cautioned, adding, "In a lot of workplace shootings, the red flags either weren't found or couldn't be found. Law enforcement agencies can find whether someone was arrested or not, but other employers can only find convictions.

"Still, if there were red flags that could be found and you didn't look for them, it's not good," he said. Like Markovitz, he suggested a social media scan for new hires to look for "rants."

Probing interview questions also can be helpful, the Workthreat Group's Michael Corcoran said. "I advise my clients to sit down with someone like myself to generate several open-ended questions asking the candidate things like how they handled problems with co-workers or supervisors at their last job; how do they usually handle stress; tell me about your hobbies; etc. And then always, always, do a complete background check on the individual, to include criminal, civil and social media searches."

Along similar lines, Kathleen L. Kiernan, of Kiernan Group Holdings, said, "Ensuring that employees have a violence-free history when they are hired is crucial because it is one of the best predictors of a likely future turn to violence. A comprehensive background screening of prospective employees should include answering questions that may point to anger management and personal control problems, such as histories of domestic abuse, assault and battery, drug and alcohol abuse; verifying in criminal record filings and other official databases, or reported problematic workplace behavior at previous jobs."

Candidates with problematic backgrounds may never apply in the first place when they learn a company has such extensive screening, she said.

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Some thought should be given to rescreening as well, and not just background checks at the time a new employee is hired. “Who’s to say someone hired doesn’t have a restraining order and has become well known to the police 20 years later?” Hillard Heintze’s Matthew Doherty said. “In government, there is recurrent screening every five to seven years. Usually when we are called in, it’s incident-driven or from media reports.”

Bret Jardine, general counsel of Atlanta-based background screening firm First Advantage, told Bloomberg Law that some of his firm’s clients rescreen every year, and some rescreen every two years.

First Advantage rescreens its own employees every two years, Michael Pilnick, executive vice president of HR for First Advantage, said. Jardine added that some industries, such as health care, require more frequent rescreening of their employees.

Kiernan also noted that employers that use contracting companies must ensure they do full background screening of their employees as well.

Behind the frontlines of the hiring and screening process, Corcoran and Kiernan suggested setting up what Kiernan called “a threat assessment team,” which can swing into action when, despite all the screening, a current or former employee displays threatening behavior. This team should “determine the appropriate intervention to mitigate the threat posed by the employee, whether disciplinary non-firing, firing, or to call to law enforcement to mitigate the threat through arrest or other means,” Kiernan said. “In large organizations, these tend to be stand-alone teams, in smaller organizations, a component of HR.”

Such threats often arise when an employee is being disciplined or terminated. In those cases, said Corcoran, “the folks delivering the discipline should be skilled in handling sensitive and potentially volatile situations—and it should never be the employee’s immediate supervisor.” A discussion before the meeting can help determine the best way of approaching, talking to and dealing with the worker prior to termination, Corcoran said.

“And lastly, unfortunately things do not end once the employee is terminated— especially if terminated for a volatile reason,” he said. “Organizations are now expected to monitor these individuals as best they can, for there have been many cases where the subject does come back and harm people.”

The way the firing is handled can mean a lot. “Always terminate on Friday after work hours, or at the end of the day, when there are not a lot of people there, so the employee is not humiliated—so you don’t have to do the ‘walk of shame,’ ” Markovitz suggested. “Don’t give reasons, and don’t get into an argument.”

But Doherty suggested that advice may not always apply today. “The days of firing someone on a Friday are over,” he said. “That has potentially tragic consequences.” Instead, he suggested the employer examine “what is causing them to exhibit behavior of concern” and how to deal with it. Consider extending the terminated employee’s health benefits, if he or she is in need of mental health treatment, on condition the person “not show up at the workplace, not harass co-workers, and so on, as distasteful as it is to reward someone for bad behavior.” The idea is endorsed by the Society for Human Resource Management, he pointed out.

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Police are now savvy to the risks of some terminations, Doherty said. “As recently as 10 years ago, if HR called police and said they were terminating someone, police would show little interest. Now, with terminations or mass layoffs, police have coined the term ‘termination standby.’ They will be on notice, very well aware of the person of concern, aware of the person’s record.”

The stakes can be high. Hillard Heintze was involved in a case where a male employee was fired for anger management problems and had stopped taking his mental health medication. “He got his health benefits, but drove to a gun store,” Doherty said. Police were on termination standby, and the fired employee’s wife went to court to get his legally purchased guns taken away.

Just as dangerous to the workplace is domestic violence, an area where all the pre- and post-employment screening in the world may not help if the perpetrator is not an employee but is or was in a relationship with an employee. In a number of high-profile cases, perpetrators have killed co-workers of their abuse victim.

“One-third of the women killed in the workplace had shown signs of being victims of domestic violence,” Doherty said. He suggests encouraging employees who are victims of domestic violence to provide the employer with a copy of any restraining or protective orders. “That’s not just to keep those on file—the security officer should be aware of local laws on restraining orders.”

If the restraining order hasn’t been extended to the workplace, the employee should be urged to get that extension, and the police near the workplace made aware of it. However, HR should not suggest an employee who might be abused get a restraining or protective order in the first place, because that can set off the abuser, Doherty said. Instead, refer the victim to domestic violence prevention services.

Public-facing employees should get a photo of the person the order is taken out against, while the employee should be reassured that he or she can’t be denied employment or promotion because of being a possible victim of domestic abuse, Doherty said. “Make sure you know the difference between a restraining order and a protective order—the latter is much more strict, the person can be arrested.” Consider offering the victim a parking space closer to the building, and make security aware of what time that employee comes in and leaves.

There’s a reason seemingly different types of violent offenders all pose a threat to the workplace. “A domestic violent offender is all about wanting to be in control of his or her victim, to feel the power,” Corcoran said. “The workplace violent perpetrator has a similar issue, although it may be ignited more from wanting to seek revenge for perceived wrongs. But the bottom line, they, too, want to feel they have control—especially against the supervisor who has been bullying them, for example. There is nothing more controlling than pulling the trigger on a gun and ending someone’s life.”